

Joint Committee on the Draft Domestic Abuse Bill

Oral evidence: [Draft Domestic Abuse Bill](#), HC 2075

Tuesday 23 April 2019

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Members present: Mrs Maria Miller MP (Chair); Baroness Bertin, Lord Blair of Boughton QPM, Baroness Burt of Solihull, Lord Farmer, Lord Ponsonby of Shulbrede, Diana Johnson MP; Alex Norris MP; Helen Whately MP.

Questions 65-117

Witnesses

[I](#): Emily Frith, Head of Policy and Advocacy, the Office of the Children's Commissioner, Eleanor Briggs, Head of Policy and Research, Action for Children, and Debbie Moss, Chief of Staff, Barnardo's.

[II](#): Amanda Barron JP, Domestic abuse liaison magistrate for Central London Magistrates courts, Elspeth Thomson, member of the Resolution National Committee, Resolution, Nicole Jacobs, CEO, and Tanya Allen, Specialist Domestic Abuse Court Coordinator, Standing Together Against Domestic Abuse.

Examination of witnesses

Witnesses: **Emily Frith**, Head of Policy and Advocacy, the Office of the Children's Commissioner, **Eleanor Briggs**, Head of Policy and Research, Action for Children, and **Debbie Moss**, Chief of Staff, Barnardo's, gave evidence.

Chair: Good morning. On behalf of the whole Committee, I thank you for taking the time to be with us here today. We know how much time it takes to prepare for giving evidence to a session like this, and we are immensely grateful for your time. We are going to follow the usual pattern, so Members will ask a series of questions. I think you are aware of that. May I ask you to give your name and the organisations you represent before Lord Ponsonby starts with our first questions?

Debbie Moss: Debbie Moss. I am chief of staff at Barnardo's.

Eleanor Briggs: Eleanor Briggs. I am head of policy and research at Action for Children.

Emily Frith: I am Emily Frith. I am head of policy and advocacy for the Children's Commissioner for England.

Chair: Brilliant. Before we start, can I remind everybody that the Victorians were really bad on acoustics? Please project in this room, because it is not great.

Q65 Lord Ponsonby of Shulbrede: I am going to ask the first two questions, which I think you have had sight of, regarding the scope of the draft Bill. First, the Government have set the age limit in the statutory definition at 16, partly to ensure that abuse of under-16s is always recognised as child abuse. They are committed to recognising the devastating impact that domestic abuse has on children in their statutory guidance on the definition. Do you agree with the Government's approach to the statutory definition? If not, why not?

Emily Frith: The Children's Commissioner's opinion is that the age limit of 16 should be removed, so that we don't exclude under-16s experiencing abuse in intimate partner relationships. We know from a National Society for the Prevention of Cruelty to Children study in 2009 that 21% of girls aged 13 experience physical violence from their partners, so it is not an issue that affects only 16-year-olds and above. SafeLives found that 16 and 17-year-olds experienced abuse for an average of one and a half years before accessing services, so this abuse can start much earlier than 16. From serious case reviews, we know that children have died when abuse started before the age of 16. We want to make sure children aged under 16 are able to access support when they are in abusive relationships. I absolutely agree that the Children Act must remain in force, and abuse of someone under 16 must still be considered child abuse.

Eleanor Briggs: Action for Children really welcomes the engagement that we have had from Government Departments and welcomes this session to bring children into the Bill and make sure they are accounted for. Although we welcome the inclusion of a statutory definition, we note that the Bill's explanatory notes set out that this will be adopted more generally by, for example, public authorities and frontline practitioners. For that reason, we feel that the Bill doesn't go far enough. Children should be explicitly included within the definition, so that they are not overlooked when people look at the Bill and at how they respond.

We take a slightly different view from the Office of the Children's Commissioner on the 16 age limit. When we consulted our safeguarding experts, they suggested that we should retain the age limit to ensure that abuse of under-16s is always recognised as child abuse. However, I would say very clearly that we recognise the problems around the lack of services for children under 16 in that situation, where they are in an abusive relationship. We would push for there to be clear support and, perhaps in statutory guidance, a recognition of the need to support children in that situation.

We are slightly concerned about lowering the age limit because of criminalising perpetrators under 16. Our view is that they need support, so we can try to change trends at that age. But what we would particularly want to focus on is that, while we do not want to remove the age limit, we want the Bill to take greater account of children who experience abusive behaviour between two adults in the household. We know that that will shape future efforts to tackle domestic abuse, and that children who are exposed to and experience domestic abuse in their households are seriously impacted by that experience. Members of the Committee will already be aware of that.

Our concern is that if children are not included, that could have an impact on the level and quality of provision available to children, and how serious the response is from the police and other authorities. We know from the joint targeted area inspections report from 2016 that in many cases, children were not actually properly accounted for by partners.

We would also say that we recognise and welcome that the definition is extended to go beyond physical violence to include controlling and coercive behaviour. Research shows that children are really impacted on by that behaviour, so that is another reason why we feel that they are invisible within this definition. Finally, I would point to the Australian precedent, and say that we think we can build on what they have done in Victoria about bringing the impact of children into the definition.

Debbie Moss: I agree with much of that. We would say that there are two main aims. We need to make sure, obviously, that children are getting the right support and are getting it early enough, which we know, unfortunately, often does not happen at the moment. The other thing is that we do not want to unnecessarily criminalise children.

There are two groups that we need to be mindful of, for whom the solutions are probably slightly different. There are children who are in a household or in a family where there is domestic abuse, which can have serious ramifications for them, both in terms of short-term impact and long-term impact, as the key adverse childhood experience. The other group is those under-16s in intimate relationships. Overall, we think it makes sense to have the 16 minimum, because that makes it clear that they are different groups and that we are talking primarily, in the Bill, about older relationships.

That said, we would support doing two things. One is that if there is a way to mention the impact on children in the definition later on in the definition, we would be supportive of doing so—if we can do that without criminalising them. The other thing is that—I think we might come on to this later—some kind of duty to provide support is really important. That should include preventive support, including for young people under 16 who are engaging in abusive behaviour.

Q66 Lord Ponsonby of Shulbrede: My supplementary question will be covered quite a lot by the second question, so I will read out the second question and then add my



supplementary. Why is the current provision under the Children Act insufficient to protect children experiencing domestic abuse? How could the statutory definition be extended to include children without overlapping or weakening existing Children Acts legislation? That is the question that you are expecting.

My supplementary question is about the strength of services for under-16-year-olds. If you are under 16 and you are suffering or are a perpetrator of domestic abuse, there are services available, but how strong and how statutorily based are they? Debbie was making the point that they are weaker services—that is the concern. Is there an argument for beefing up those services, rather than changing the definition?

Debbie Moss: There is definitely a case for beefing up those services. We think about young people under 16 who are experiencing abuse. They are obviously vulnerable young people. They often have other adverse childhood experiences going on at the same time. They are obviously very much in need of help and support. Similarly, though, and less easy to provide for perhaps, are the young people who are abusing other young people while they are young.

Barnardo's runs, among other things, lots of harmful sexual behaviour services. We see a similar pattern there, where we have young people who, generally speaking, it is not best to criminalise—that is not really the answer—but what we do need to do is to intervene early, because those young people, with the right support, can go on to have very positive futures. We do not want to leave them without that support because, among other things, in the longer term they are more likely to repeat that cycle of violence, either as abuser, abused or both. That is what we really need to break.

Any statutory provision obviously sets the tone for the type of service and the seriousness with which that is taken by providers, but as I say, that would need to be done in a way that does not risk criminalising children unnecessarily.

Eleanor Briggs: Debbie has answered that bit of the question very effectively, so I will focus on the second question you put to us. In terms of the Children Act, we want to highlight two areas to consider. Undoubtedly it is a very valuable piece of legislation, and we think it became more valuable when in 2002 it was amended so that the definition of harm suffered by a child includes “impairment suffered from seeing or hearing the ill-treatment of another”. However, we would highlight that in 2015, with the creation of the new offence of controlling or coercive behaviour in intimate or family relationships, there could be a need now to make it absolutely clear in the Children Act that that is included in the definition of harm.

Secondly, the Children Act now operates in a really high-risk paradigm. It really focuses on child safety and provides for those children and young people who are at immediate risk, but we know that others still need help, including those who might not be at risk because they have left the family home, but still require support to come to terms with what has happened to them within their family. We have commissioned research from Stirling University that shows that the risk model and the high thresholds in place under the Act mean that many children with significant needs are not getting support, and children find it very difficult to access services independently.

Another issue highlighted is that sometimes survivors struggle to access services through social care and would prefer to get services another way. So we believe it is critical that all children who experience domestic abuse, wherever they are living in the country, can access

support. We do not think that is the case at the moment under the Children Act. We think the Bill presents a real opportunity to change this.

In your second—

Q67 **Chair:** Sorry, just before we move on to that, can you tell me succinctly why you need legislative change? I am not clear on that, because a lot of what you were talking about was to do with provision of services.

Eleanor Briggs: Yes. We think that domestic abuse is not being picked up enough under the Children Act, and if domestic abuse is included in the statutory definition—this answers the second part of the question as well—it would be really clear that children are a key part of domestic abuse, and that services for them should become part of the commissioning framework and be considered as part of the response. We would not see it as overlapping in a bad way or weakening the existing Children Act; we see that as strengthening and complementing it. Coercive control already exists in another Act but will be included within this definition, and we think it is the same with children—they should be included within this definition.

It is a bit corny, but I have been thinking about it as a one-stop shop definition. So if you are a frontline practitioner, a local authority or a local authority partner responding to domestic abuse and it is all included within this definition—the Bill's notes say that practitioners and local authorities will be using the definition—that will make it a lot easier than expecting practitioners, local authorities and the police to be looking at multiple bits of definition. Having it all there together makes sense.

Chair: That is really helpful. Sorry, you were going to reply to the second part.

Eleanor Briggs: I think I have finished my point. Thank you.

Emily Frith: I agree with everything that Eleanor just said. When the definition was moved to 16 and 17-year-olds, this was done—according to the Government—because it left young victims without the help they needed to change their situation and end abusive relationships. As I have demonstrated before, children younger than 16 are in these relationships. We are concerned that the Children Act, as Eleanor was spelling out, does not include enough recognition of the impact of domestic abuse on children, and other agencies who are not specialists in that Act will be using this definition. Agencies like the police will be looking for this legislation to explain to them what domestic abuse is, and if we are not recognising that it impacts on children, we will not see that response in terms of service provision.

In the new guidance on relationships and sex education, we tell children aged 15 that they should understand the law on domestic abuse, but the law does not tell them that domestic abuse can happen to them in their own relationships. We are concerned about that.

Q68 **Baroness Bertin:** Do you think the new sex education programme meets the challenge? What are your views on the opt-outs and how they should be monitored?

Emily Frith: We welcome new relationships and sex education, but we think it is important that there be specialist provision for education on domestic abuse and that it is not left to the generic curriculum. There is very good specialist provision in this area, and it needs to be brought in.

We need specialist services for children and young people that do not just ape the services available for adults, because it is different for children: children are more likely to still be in the relationship when accessing support, rather than having left that relationship. That means they are more vulnerable. They are less likely to report the abuse themselves. New technology has more of an impact on young people's relationships; for example, where a boyfriend gets a girlfriend's Facebook password and is able to access their social media content, and the use of revenge porn can be much more prevalent among children. We need to make sure that specialist services are available and that there is a definition in the legislation for people to build services around.

Q69 Baroness Burt of Solihull: I will try to finish off the questions about the scope of the Bill. If there is anything you think should be included in the Bill that is not there, this is the opportunity to mention it. I can guess the answer to my first question: should the Bill include a statutory requirement to provide accommodation support for survivors of domestic abuse, including children? With regard to scoping, I was thinking about access to mental health services, promoting health in schools, the accommodation factor and coercive control, which we have already picked up. Do you think all that should be included in the word "support"? Are there other things that should be in that statutory requirement? Could you tell us if there is anything that we have missed out?

Eleanor Briggs: You rightly guessed that we would support something along those lines. We would want to look at it in the context of what MHCLG is developing—it is looking at a potential statutory duty or guidance on accommodation for local authorities to be included in the Bill. We are mindful of the recommendation by the Home Affairs Committee about placing a statutory obligation on local authorities to provide refuge places and specialist support. As you suggested, we are very keen for the scope to be broadened, to take account of the needs of children. You will be aware of the issues: Women's Aid found that on one day, 90 children were turned away from refuges alongside 94 women. We have real concerns about the variation across the country. I referenced the research we are doing with the University of Stirling on this, which is interim at the moment but we will be able to share it with you when we have the final research.

The ironic thing is that we know that specialist services for children reduce the impact of domestic abuse and improve child safety and health outcomes, yet at the same time we know that there have been reductions to the services available. From our research with Stirling we know there is a lack of guidelines and a sense that people are not sure of their legal requirements. We have noticed that the current national statement of expectations does not include anything adequate about children for the commissioning of services. Again, that has been echoed by our research.

We are particularly aware of the current funding climate. Although funding announcements from Government are extremely welcome, we are not taking those £8 million for granted at all. We need a longer, more sustainable approach, and we feel that having a duty on local authorities and their partners would make the difference. There is a real opportunity in this Bill for that to happen.

Q70 Chair: Of those 94 turned away, how many did not find accommodation?

Eleanor Briggs: I am afraid that is a Women's Aid stat. I can take that away and come back to you to let you know what happened to them.



Q71 **Chair:** That would be really helpful, thank you. Maybe we should ask Women's Aid that question—sorry, I forgot to ask them when they were in front of us.

Eleanor Briggs: We are working really closely with them.

Baroness Burt of Solihull: Debbie?

Debbie Moss: Yes, I would agree with much of that. It is really important that it is a duty on different agencies. As we see with other groups of children, local authorities are the traditional holders of these duties and play a really important role—as you alluded to, health does as well. We need to think about community-based and multi-agency support and responsibility for helping these children, not least because the consequences of not helping them play out in the various different services locally and nationally. It is also important to say that when we are talking about a duty, there is something about emphasising prevention. One of the reasons we feel so strongly about domestic abuse at Barnardo's is that when children come to us—especially in our child sexual abuse services and harmful sexual behaviour services, and among the young carers that we look at after—many of them, after they have formed a relationship with one of our workers, will disclose that they grew up in a home where abuse was normal, and it is something that was not picked up at the time and adequately responded to. If it had been, they may not have ended up where they are now. A duty should be framed in a way that really appreciates the preventive nature of this work. Going back to the point about 16-year-olds and under, those young people need the right services to break that cycle, so that they do not go on to be victims or perpetrators in abusive relationships later. I would just emphasise the multi-agency aspect and preventive aspect of a duty.

Q72 **Baroness Burt of Solihull:** The point about being specific, though, is because we've currently got this postcode lottery and more of an ad hoc response from the different services—things like psychological services, prioritisation for schools, and prioritisation for mental health and other services. Do you think it would be important just to spell out exactly what is meant, so that hard-pressed services cannot say—because of the pressures on them—“Well, I'm very sorry. You want this specialist consultation for your child, and you've had to move round four or five different places, but each time you have to go to the back of the queue again”?

Debbie Moss: Yes. To clarify, you absolutely need a duty on multiple services, because no one service can provide what children need. We would always say that a single point of contact for a family—a single agency or even an individual that they can go to and hold to account—is absolutely necessary as well.

Emily Frith: We also agree that there should be a statutory duty to provide support. Our vulnerabilities report found that 1.62 million children live in a household with an adult who has experienced domestic abuse. Not all these children will be in receipt of children-in-need plans or child protection plans. Wider support is needed for these children, and we know from our research on mental health that there is wide variation across the country in this low-level provision of support. As you say, at the moment it is a postcode lottery. We think there should be a statutory duty to provide support for young people, particularly specialist support, so that it is not just seen as a wider domestic abuse service and that there is specialist support for children, either as victims, perpetrators or witnesses. We completely agree with the other panellists that it is not about criminalising young people; it is about ensuring that the perpetrators and victims are identified and the right support is put in place. We believe that

can be done with the statutory guidance. We also would like to see the detail of the consultation on providing accommodation, to ensure that it is accompanied by adequate funding and that specialist services are provided. We think there should be better data on prevalence and better data on what is spent by local areas, as well as a statutory duty.

Q73 Diana Johnson: I would like to ask about the role and powers of the domestic abuse commissioner. Generally, does the commissioner have sufficient powers, resources and independence from Government to make a difference to services provided for children experiencing domestic abuse?

Emily Frith: As Children's Commissioner, obviously we can compare the proposed definition to the powers that are available to the Children's Commissioner. We believe that the level of independence is not high enough in the legislation. A few things: in the legislation the commissioner has to send draft reports to the Secretary of State before publication, and the Secretary of State has to approve the annual strategic plan. We would like to see both those things removed, because that would give the commissioner much more independence to report directly to Parliament.

We also believe that the staff should be appointed by the commissioner directly, rather than by the Secretary of State, because that would give the commissioner more independence and more autonomy. That is currently the case for the commissioner. In terms of powers, our data-gathering powers are something that we believe are particularly effective for driving change—both gathering data from national agencies such as NHS England and Government Departments, and from local authorities. That could be added to the powers provided by the domestic abuse commissioner as well.

Q74 Diana Johnson: From the Children's Commissioner's point of view, what do you expect the interface to be with the domestic abuse commissioner?

Emily Frith: We really welcome the idea that the domestic abuse commissioner will focus on children. Our remit is incredibly wide; it can be any issue that impacts children. Although we try to focus as widely as possible, we have limited resources and cannot cover every issue, so we work with other commissioners already, such as the Anti-Slavery Commissioner and the Victims' Commissioner. We would work closely with the domestic abuse commissioner to make sure that we do not overlap, and can add value and work together to improve the lives of children.

Eleanor Briggs: Emily has given a really comprehensive answer. Those are all points that we were going to raise ourselves. We support all of that. A couple of other things: sometimes the language relating to the commissioner in the Bill tends towards "encourage", "enhance" and "may". We would suggest that it could be looked at again—around "must ensure"—and be slightly strengthened. We also welcome the establishment of a victim and survivors advisory group, but would stress that it would be important for the voice of a child to be heard within that group.

Finally, to underline the point that Emily has already made, the APPG on domestic violence and abuse took evidence from the former independent Anti-Slavery Commissioner. He very strongly made those points, highlighting the importance of independence over strategy and work plan, and stressing that that enables them to respond to emerging issues in a way that just is not possible if everything has to be checked off and signed.



Debbie Moss: I agree with much of what has been said. Again, independence is absolutely crucial, and that there is a mechanism for ensuring that children's needs and their approach to how they experience this can inform the commissioner's work, and that they have an opportunity to feed into the work as it develops.

Q75 Diana Johnson: One last question: does the Children's Commissioner report directly to the Education Committee?

Emily Frith: Yes, to the Select Committee.

Q76 Chair: Can I get a clarification on that? They report to the Select Committee, but what is their relationship with the Department for Education?

Emily Frith: The budget is set by the Department for Education, but the Secretary of State does not sign off the annual report. It is published directly to Parliament.

Q77 Chair: But the budget and the remit is set by Government.

Emily Frith: The budget is set by the Government, but the commissioner has quite a lot of independence in setting her own business plan. That is based on consultation with children, and consultation with external stakeholders.

Q78 Lord Blair of Boughton: I am conscious of time, so I will keep this fairly short about policing and justice. Clare's law is now to be called—has probably already been called—the domestic violence disclosure scheme. Is putting it on a statutory footing really going to make that much of a difference?

Eleanor Briggs: We support doing that—we do not think that is a bad thing—but we would highlight, as was said in your first evidence session, that many survivors will not bring criminal proceedings, so their perpetrators will not be known to the police and they will not show up through a disclosure scheme. Therefore, as a previous witness said, that is not going to be a silver bullet in terms of preventing this from happening again and again. Really, our focus would be on support services that can offer early intervention and work with children and people entering those relationships to try to solve the situation as soon as possible. Alone, the domestic violence disclosure scheme is not going to solve the problem.

Q79 Lord Blair of Boughton: I assume the other two witnesses would give the same answer?

Debbie Moss indicated assent.

Emily Frith indicated assent.

Q80 Lord Blair of Boughton: Barnardo's, you have put forward a couple of pieces of work you have been doing, one with police forces in Wales and the other with the children's hearings system in Scotland. Are you putting forward written advice about that to the Committee?

Debbie Moss: I believe that was referenced in our written submission, but we can certainly give you more detail. Let me say a little bit about the work in Wales, because I think it is particularly noteworthy. Early Action Together, as it is called, is our work with police forces in Wales. It is broader than domestic abuse; it is about providing adverse childhood experiences training for all the police forces in Wales, which is quite exciting in terms of it being a really different approach to working with victims and early identification. So far, we have trained 2,000 police officers in Wales. One of the people we trained put it really well

when they said, “This is about realising that, when we go to the scene of a crime, it might be the only opportunity that that family has to get early intervention, and we don’t want to miss it.” That is just a little bit of feedback, but it shows what we are trying to achieve, which is police seeing their role not purely in terms of the criminal justice element but in terms of, “How do we set in motion a process that is going to help this family and set them on a better path for the future?”

Q81 Lord Blair of Boughton: Thank you. May I ask all of you a little bit about family court proceedings, which the Committee is beginning to focus on quite a lot? Is there anything that you would suggest ought to be in the Bill, or in practice, concerning the protection of children from the negative consequences of family court proceedings around domestic abuse? Are you aware of revised practice direction 12J? What are the implications of that?

Emily Frith: I am aware of the revised direction. Our office has received correspondence from families who are very concerned about the impact of family court procedures on their children, particularly around contact from an alleged perpetrator, which has been very concerning. We would like to see increased access to special measures in the family court. There is already a focus in the Bill on special measures in the criminal court, but more could be done to increase access in the family court as well. One other thought we had is that the new domestic abuse commissioner could look at this in greater detail in terms of the guidance that Cafcass follows—all the things that would not be on the face of the legislation but could improve the response of family courts.

Eleanor Briggs: We would welcome those measures. Although we are not experts in this area, we do have child contact centres, and we hear from them about how deeply distressing this process can be for survivors and their children. We have been working with Women’s Aid, and we are supporting their calls around the family courts—looking at a review of the whole process, at a prohibition of unsupervised contact for parents on bail for domestic abuse-related offences, at how child contact arrangements are decided, and at getting the right balance between the presumption of parental involvement and what is in the best interests of the child. We are supporting their calls on that.

Debbie Moss: We are, unfortunately, also hearing through our services of instances where children are being allowed contact with abusive or potentially abusive parents. There is a suggestion that the revised practice direction is not always being followed, which is something we have raised.

I suppose there are two other things we would say. One is that there is something about making sure the voice of the child is heard appropriately in these types of proceedings. On the one hand, we hear of cases where contact decisions are made without anyone really speaking to the child or even to an organisation—whether it is one of us or someone else—who might be supporting the family at the time. We think there could be much more clarity on how to get the views of the child appropriately in each case.

Similarly—to go back to the point about what is often described, unfortunately, as a traumatic or re-traumatic experience for children—provision of appropriate therapeutic support throughout the court process is really important and often very patchy.

Q82 Lord Blair of Boughton: One last question, which is not on the list, we actually picked out of the last evidence session. Eleanor mentioned bail, but of course there



are concerns about restriction of the use of bail by police in these cases. I wonder if you have anything you would like to say about that.

Eleanor Briggs: I have to say that it is not an area that we have had feedback from services or have expertise in.

Emily Frith: I know that the Centre for Women's Justice raised a complaint about this issue. We think it is very concerning, if parents do the brave thing and report the issue, that they do not necessarily get the confidence that they will be genuinely protected by the police. We think that complaint is very concerning.

Debbie Moss: It is something that we too have not spoken to our services directly about.

Q83 Alex Norris: One of the areas of great interest to the Committee and outside is the extent to which the provisions of the Bill are suitable for and protect women with insecure migration status. Those vulnerabilities are of course shared by the children of those women. What assessment have you made of how effective the provisions of the Bill will be for the children of women with insecure migration status?

Emily Frith: Those with uncertain immigration status are a particularly vulnerable group, because of the risk that the perpetrator will use that status to continue to control the family, so we think that the Government need to do everything possible to ensure that none of these people feels that they need to stay in these relationships at the risk of being deported. We therefore support calls from the Step Up Migrant Women campaign to extend the destitute domestic violence concession so that it is not just for those on spousal or partner visas, but for those on other kinds of visas as well. We support that campaign.

Eleanor Briggs: We echo that. We understand that there is consideration of a specific evidence session on the needs of migrant women and their families. We would really support that, and we suggest that the particular needs of their children are looked at in detail during that session. We also support the suggestion of extending the destitute domestic violence concession.

Debbie Moss: We support that also.

Q84 Lord Farmer: I will ask the last question. It concerns prevention. Earlier, you talked about perpetrator support without criminalising children. I am touching on the area here of prevention and of intervention early on, which would prevent criminalising the adults as well. Currently, there is little in the Bill to support the Government's strategy of prevention of domestic abuse with early intervention in incidents of domestic abuse. What measures should be included in the Bill? What non-statutory measures are necessary? I might ask Debbie first. For instance, as an example, the idea of a family hub, where families can go for help when they are starting to break down, when arguments are starting to happen—before the police and anyone else get involved.

Debbie Moss: Yes. As Lord Farmer knows, Barnardo's is very supportive of the idea of a family hub network—or children's centres or whatever we call them locally—in every community for that reason. We know that some half of children who are deemed to be in need have experienced domestic abuse in the home. That is one of the key issues that our workers pick up on in our 150 or so family hubs and children's centres around the country. It is one of the key issues that is addressed by those types of preventive services and,

unfortunately, where there has been a reduction in preventive services for financial reasons and other necessary reasons, it is likely to go unchecked.

That is probably not a statutory measure for the Bill but, in general terms, we would certainly support family hubs in every community. One additional point to make would be that, where we talk about a potential duty to provide support for children and for victims, that support should take place in a child-centric way, wherever the child finds it best—a family hub might be a place where some of that support could best take place.

Q85 Lord Farmer: Would you recommend a mention within the Bill that this is a pathway that should be looked at at the beginning, a non-statutory measure that there should be attention to prevention?

Debbie Moss: If it is possible, as I mentioned before, in terms of a duty to provide services, I think that any reference to prevention would be very welcome, especially as we see these cycles of abuse. We see young people growing up in homes where it is normalised. There is an opportunity there to step in. We would recommend any measure that would allow us to step in as early as possible.

Eleanor Briggs: I echo what Debbie has said. Our points are on similar lines. In terms of statutory measures in the Bill, we would stress—as Debbie has said—that having a statutory definition with a duty around providing services to children and early intervention in those situations will, we believe, have a preventative role for the points that have been set out.

In terms of non-statutory measures, we would again emphasise the importance of family hubs and children's centres. We know that over 1,000 children's centres have closed since 2009, that funding for children's services has fallen by a third and that there have been similar cuts for sexual violence and domestic violence sector services as well. In terms of non-statutory measures, we would like to look at packages alongside the Bill that ensure sustainable funding, to go alongside a duty, and the definition and everything within the Bill, to ensure that it works on the ground.

Emily Frith: I echo the comments made by my colleagues. I will also say that our research has found that non-statutory services have been cut by 60%. We need to look at the Children Act, which came in 30 years ago. We need to go back to the founding principles of the Children Act, in particular section 17 around the support for children in need.

As services have become more targeted towards the highest risk, we need to get back to that early help and support, both with family hubs and with more focus on outcomes—for example, renewing the troubled families programme and making that a wider support for troubled families, with a focus on outcomes for children. The Government's children in need review is focusing on educational outcomes. We need to broaden that out and look at wider outcomes for children in terms of their mental health and reduction of the risk of violence in future relationships.

Finally, in schools we want to see specialist education on domestic abuse and wider access to school mental health teams. Obviously the Government are looking to promote that to around a quarter of schools. We would like to see that extended, so that every school has support from a mental health team.

Q86 Chair: I have a question just before I bring Helen in. Both Barnardo's and Action for Children provide services for early intervention and family hubs in lots of different



forms. You have all referenced the reduction in funding. Have you got some data you can send to us on the effectiveness of what you provided before funding was reduced? I am more familiar with the work done by Action for Children than Barnardo's, but I am sure that you will have had to collect that data in order to be compensated by the Government for providing those services. Could you provide us with some of that information? That would be incredibly useful.

Debbie Moss indicated assent.

Eleanor Briggs indicated assent.

Q87 Helen Whately: I was just wondering if you could say what form of early intervention, in your experience, is the most effective, and which you would therefore want to see perhaps referenced in the Bill.

Lord Ponsonby of Shulbrede: Perhaps I could just ask my supplementary, because it is also relevant. Contact centres are a different forum for families getting together. What overlap is there between contact centres as they exist and hubs, which you are talking about?

Eleanor Briggs: I can take the point on contact centres. I am definitely not an expert, so if you have a follow-up question, I can take it to our staff who are experts on this. The contact centre that I visited, which Action for Children service, has very close links with the family hub. I think that works really well. They say that they build a trusting relationship with an expert member of staff, and then that member of staff can refer them on to other services where they get support. It was really amazing seeing how that relationship worked and how families had come forward through that process. In terms of what sort of early intervention we provide, I can send in more details about this after this session, but very briefly, one programme we run is Helping Hands, which goes into schools and does intervention with children, many of whom will be living in a situation where domestic abuse is ongoing. That is a particularly important service, because we know there is a gap where some therapeutic services are not able to go in and offer support when the child is still living in a home where domestic abuse is going on.

We also have the Recovery Toolkit, which is a 12-week programme for women who have experienced domestic abuse.

In terms of specific support for children, I don't think I would class this as early intervention, but a key service that we provide is one-to-one therapeutic support for children who have experienced domestic abuse. It is about helping them to recover from that experience and to understand what healthy relationships look like. It certainly would have a preventive role as well and would be cost-effective in getting in at that stage and helping them to recover from what they have experienced.

Q88 Helen Whately: Do you have any thoughts on what the most effective form of early intervention and support is?

Emily Frith: Some of the things that we have been calling for are better support in the early years—things like family hubs, but also evidence-based parenting programmes to support parents in the early years—wider universal services support, like mental health support in schools, and then, when you are getting into more specialist domestic abuse support, making sure that there are specialist domestic abuse services available for young people that are tailored to young people's needs and not just to adults'.

Debbie Moss: It is potentially helpful to make the point that the form that prevention and early intervention takes obviously varies from area to area, and it should do. We believe in a national framework, but with local discretion in terms of providing the types of services that fit the area's needs. So, depending on the partners that we are working with, the form of support can look a little bit different. Let me give you a couple of examples, and particularly from where there is overlap in these cases. We have family hubs or children's centres that might run a dads group, and within that dads group there might be supervised contact for dads for whom that is the only time they are allowed to see their children. I recently went to one where the male member of staff running it was saying that the No. 1 most important thing about being a dad is respecting your child's mother.

So this work can take different forms. More generally, though, there are different stages. We would always support some kind of universal access—the idea that you can walk through the door and know that there is support there, so it's non-stigmatising, but once you get there, there are the more targeted services that colleagues have mentioned, such as parenting classes and targeted support for domestic abuse. There will always be a range of support, and that is how we think it is most effective, because if you don't have that range, people will fall through the gaps. That has been our experience.

Q89 Lord Farmer: This is an outlier, in a way, in terms of early intervention, but there is the idea of state boarding schools for children where there could be a domestic violence situation going on and where the fact that children are involved in it can add to the tension and violence. The idea is to withdraw the child from that and place them in a calmer atmosphere, with stable relationships around them, during term-time, and then send them back. I know Theodore Agnew, the Minister, is pushing this forward. It is being tried in Norfolk and has had very good results in terms of children being put back into the families and the families calming down. Have you thought of that at all as an early prevention method?

Debbie Moss: We don't have direct experience of state boarding schools, I'm afraid.

Lord Farmer: Well, I don't think there are that many of them. It is just an idea that is being put forward by the Department for Education at the moment.

Emily Frith: I think it is an interesting model. Obviously, there are other models of more specialist support for children, such as secure care homes, mental health support and specialist fostering agencies. What is really important is that we make sure that these agencies are working together so that children end up in the right support for them and that the support that is built around it is very therapeutic. While there is an educational lead, you need to make sure that there is appropriate mental health support and appropriate social care support in place. And potentially, when a child is behind closed doors, there could be other risks involved in terms of safeguarding that child and making sure that they are protected from overuse of restraint, for example. So we need to make sure that the quality of any provision is good and that we have a coherent wider system of the kind of support that children can be funnelled into.

Chair: I think we have finished this session. That is great. Are there any other questions from anybody? Thank you so much for your time this morning; that ends our first panel. I will ask our panellists to leave and we will seamlessly move on to our second panel, who should be waiting just outside the door.

Examination of witnesses

Witnesses: **Amanda Barron JP**, Domestic abuse liaison magistrate for Central London Magistrates courts, **Elsbeth Thomson**, member of the Resolution National Committee, Resolution, **Nicole Jacobs**, CEO, and **Tanya Allen**, Specialist Domestic Abuse Court Coordinator, Standing Together Against Domestic Abuse, gave evidence.

Q90 **Chair:** May I start by thanking our second group of panellists for joining us today? We appreciate the time it takes to prepare for a session such as this, so thank you on behalf of the whole Committee for that. We will do the usual thing of having a set of questions from each member of the Committee, but before we ask Baroness Bertin to start, can I ask you to say your name and the organisation you are part of, starting with Amanda?

Amanda Barron: My name is Amanda Barron, and I am the lead liaison magistrate for the domestic violence courts in central London, which covers Westminster and Hendon.

Tanya Allen: I am Tanya Allen; I co-ordinate one of the specialist domestic abuse courts, which sits at Westminster Magistrates Court. I work for Standing Together Against Domestic Abuse, a charity in west London, and I also work with a project funded by Hammersmith and Fulham Council, which works with police and criminal justice independent domestic violence advisers to respond to domestic abuse in the criminal justice system.

Nicole Jacobs: My name is Nicole Jacobs. I am the chief executive of Standing Together Against Domestic Abuse, where I work with Tanya. To give you some context on who we are as an organisation, we sit in west London and 20 years ago we were created to innovate systemic change for domestic abuse, or what we call a co-ordinated community response to domestic abuse. That entails work in the criminal justice system, which is largely why we are here today, but we also work within health, housing, community and multi-agency risk assessment conferences, which you will be familiar with. We have some national programmes of work relating to health, a pathfinder project and housing. We chair domestic homicide reviews; Standing Together has chaired more than 60 domestic homicide reviews and we have findings from those. We have also developed an accredited training for people who take a strategic lead for domestic abuse or violence against women and girls in local authorities. We are very local in terms of operationalising that best practice for systemic change on domestic abuse, but today Tanya will talk a lot about our court work.

Elsbeth Thomson: I am Elsbeth Thomson. I am a member of Resolution's national committee. Resolution is a group of 6,500 family justice professionals and we are committed to taking a non-adversarial approach to family justice proceedings. We also campaign for better law and better support for families and children undergoing family change. I am a family solicitor specialising in children law, and I work up in Newcastle.

Chair: Just to remind everybody that the microphones do not amplify, so project.

Q91 **Baroness Bertin:** I will kick off with a general question about the scope of the draft Bill. The statutory definition of domestic abuse will play a big part in this Bill; do you think the Government have got the balance right with their proposed definition?

Nicole Jacobs: Largely. Standing Together is part of the Women's Aid sector-wide effort; you heard from them on 2 April in this Committee, and we endorse a lot of what you heard

there from Women's Aid and the End Violence Against Women Coalition. I would like to make a couple of points to you about the definition. One would be about the gendered nature of domestic abuse—you have heard this before—and the fact that it would be helpful to have a recognition of that. That is not to discount at all the idea that there are male victims. Certainly, we know in our day-to-day work that we will see and help male victims of domestic abuse, but we feel and see in the way things are played out locally that unless we recognise the gendered nature of domestic abuse, we can get into all sorts of problems, commissioning services that aren't as appropriate as they should be, and other practical considerations that stem from that.

The other point stems from our work related to domestic homicide reviews, where you can see that a fourth of domestic homicides are adult children who have killed a family member, most often a parent and most often a mother. I think there is something about recognising the adult-child-to-parent violence that happens and that you can see in domestic homicide reviews, where we don't have the most appropriate or developed referral pathways for people in those situations or risk assessment tools. We talk about a whole raft of issues related to intimate partner violence and improvements that need to be made, but if you look at the findings from domestic homicide reviews by comparison, adult-child-to-parent violence is vastly underdeveloped. I would like to point that out.

Amanda Barron: I would say you have got the definition right. We have been using that expanded definition in our criminal courts since the Government recommended it in 2014. We have two specialist domestic abuse courts in Westminster magistrates court that have been going since 2003 originally, so they are very well established. We have seen all sorts of different types of domestic abuse coming into the courts since that definition. Personally, as a justice, I wouldn't want to see it being gender specific, because although—

Chair: Sorry, you would or you wouldn't?

Amanda Barron: I wouldn't want to see it being a gender-specific definition, because although the majority of cases we see are male against female, we also have quite a few same-sex cases that come to court. We also have quite a lot of interfamilial crimes that occur between children and parents, or brother on brother, so I would want to keep the definition open. As far as the age is concerned, I think 16 is right. I am a youth magistrate as well. We do deal with domestic abuse cases in the youth court, but the way that you would sentence a child if a domestic abuse kind of offence had occurred is taken into account when you are in a specialist youth court.

Q92 **Chair:** What would be the problem of having a reference to gender within the definition on the face of this Bill?

Amanda Barron: You wouldn't be able to deal with all the different raft of cases that we see. It needs to be a wide definition in order to come into our specialist court and also because of some of the guidelines that are used. For example, there is an overarching principles document—I am sure you know it—that is about domestic abuse cases and covers this wider definition. You would be narrowing yourself too much to have a gender-specific definition.

Q93 **Chair:** Sorry to drill into this in a little bit more detail, but it is incredibly helpful to have your frontline experience. Am I right that your concern would be that having a specific reference to gender on the face of the Bill might in some way impair your ability to be able to deliver?

Amanda Barron: Yes, I think so, because we are looking at all forms of domestic abuse. I understand that once someone has been convicted, there should be certain different pathways, different support and different sorts of perpetrator programmes, which is a point I would like to make later. We need more perpetrator programmes for different sorts and types of domestic abuse offences, because at the moment we only have intimate relations programmes for building better relations. That is for men and it is a group programme about violence against women. It would be good to see many more programmes available through the court and having that wide definition allows us to do that.

Q94 **Baroness Bertin:** Obviously, I am keen that Elspeth and Tanya come in, but while we are on this, could you explain why you think it would be beneficial?

Nicole Jacobs: I think it is partly just that we are thinking of it in different contexts, to be fair. In the court context, obviously you don't want to prejudice any case that could be going through the criminal justice system. I was referring to the idea that we use this definition in a wider context when we are talking about the commissioning of local services and training. In that context, just the reference to the gendered nature would be helpful, because it would be accurate. But I would not necessarily disagree with your argument in the criminal justice context.

Q95 **Baroness Bertin:** Elspeth, do you want to add to that?

Elspeth Thomson: First, have the Government got the balance right with the proposed definition? Broadly, yes. It is very good that economic abuse and coercive and controlling behaviour are included in the definition. But it is noticeable that coercive and controlling behaviour is not defined in the Bill, although it is defined in the guidance. I am not sure what the thinking behind that is.

Also, the consultation included in the definition “not limited to” and gave examples, but in the Bill, it appears to be an exhaustive list. I am not sure what the thinking behind that was. In particular, the list in the draft Bill does not include some cultural-specific domestic abuse, such as stranding, matrimonial abandonment and that sort of thing. It might help to future-proof the Bill if it had a “not limited to” part, rather than making it a fixed list.

Also, it is good that the definition includes relatives. You have heard from other people about why that is important—it is not just partner-partner relationships. Perhaps the only thing missing from the definition is people who are living in the same household but are not in an intimate personal relationship. The current Family Law Act 1996—quite an old bit of law—includes a category of associated people who are living in the same household but are not lodgers or tenants. That seems to me to be something of a gap in the definition.

Amanda Barron: I would be worried about that if they were not related, because it is in the nature of domestic abuse that is a pattern of offending, which you would often get in an intimate relationship or a family relationship, but which you would not necessarily have with two people flatsharing. There is not necessarily going to be any pattern of offending in that way; whereas if you have an ex-partner who has a couple of convictions against the same partner, that could be a problem or a risk that carries on for years to come, which is not going to be the same sort of risk if you have just got two people living together.

Q96 **Helen Whately:** I want to pick up on the definition question. Amanda, is there a way of achieving what you are looking for when you say you do not want a gendered definition—you want a gender-neutral definition—and what Nicole, and others we



have heard, are looking for, saying that they think it would be helpful to refer in the definition to the gendered nature and the fact that, more commonly, the victims of the crime are women, though of course recognising that men may also be victims? I understand that that is helpful for commissioning services. Would it be possible to have a reference to that, while achieving the openness that you say you need to have in the definition, from your perspective? Can you imagine that would be possible?

Amanda Barron: But the key is that if you have a wide definition it is then open to have lots of support in connection with the different types of domestic abuse that occur. By limiting yourself by gender, you are not helping yourself at all. By having this open definition, you can then focus on all the different types of abuse and what services and support are required.

Q97 **Helen Whately:** Okay, but if the definition referred to men and women, but recognising more commonly women, and that some services need to be specific to gender, while clearly being across gender, does that then achieve your objective, can you imagine?

Amanda Barron: If the definition says two people are personally connected—they have been married; they are civil partners—I don’t see how you change it to make it gender-specific. I don’t know if anyone else has an idea.

Q98 **Lord Ponsonby of Shulbrede:** I want to make a slightly different point. It is not just that there is a gender imbalance, there is also an imbalance for other people, such as very old people and people with disabilities. I think that they are also disproportionately victims of domestic abuse within the family home. So I am agreeing with Amanda, basically, which should not surprise people.

Amanda Barron: We also see adult children, who have a drug problem, living at home with their parents. They may then be quite violent to other members of the family. It is often the mother, or it could be an elderly parent—an elderly father. So there is a whole range of victims. Often male victims are perhaps a bit forgotten as well, as there might be more of a stigma for them in coming forward. Although they are a small proportion, there is still that proportion there.

Q99 **Chair:** Can I say that your concern is that creating any sense of narrowing the definition in the Bill may have unintended consequences?

Amanda Barron: Yes.

Q100 **Chair:** So we would have to look for ways of picking up the commissioning problem—that issue has come out from a number of witnesses elsewhere, although the valid point being made is that one should not assume that commissioning should be focused on any one group. The people affected by this are wide in range—old, young, male, female. To pigeonhole this as just affecting one group of people is wrong. That is the point we are trying to grapple with.

Nicole Jacobs: It seems we all agree there is a gendered nature, in that this issue affects older women and women with disabilities, but that does not necessarily mean there are no male victims in those categories. I suppose that in local authorities and local areas, when people hear “gender-neutral” they misinterpret that and think, “Well, we should commission services in a very gender-neutral way”. We know that the more specialised a service is, the better received it is, and the unintended consequence that we do not want is to move to some kind

of generic service provision—we have seen how well specialist services do for victims of domestic abuse. I appreciate it is a quandary for you.

Amanda Barron: I agree with that. I think as a lawyer you want to keep the definition wide, but you have to look in practice at where most of the abuse is occurring. Statistically, the vast majority of abuse is male against female, and you very much see that. But the definition should be broad.

Q101 **Baroness Bertin:** Could this somehow be tackled in the statutory guidance? That is where the detail of the commissioning services could be fleshed out.

Nicole Jacobs: Potentially. Anything you could do to strengthen that argument is really important at this stage. It is something that is genuinely going wrong in many areas, and that recognition of the gendered nature is important to hold on to as we develop and make our services more innovative and sophisticated. That is really the ambition of the Bill—we want to hold on to the fact that we would not want things to be misinterpreted as not gendered. That is just not what is happening in court or in specialist services on the whole. Anyone who would make that statement would always want that caveat—as we do in our service area—because we see many male victims, particularly in health-related settings, or same-sex relationships. We don't want to lose that either, but the statutory guidance suggestion is a good one.

Baroness Bertin: Tanya, did you have anything to add?

Tanya Allen: No; I think it has been covered.

Q102 **Baroness Burt of Solihull:** I would like to focus on the role and powers of the domestic abuse commissioner, leaving aside the fact that this is supposed to be a part-time role, and the enormity of the task. I would like to start with Elspeth. Do you recommend any changes to the proposed role and powers of the domestic abuse commissioner?

Elspeth Thomson: No. The Bill seems to cover where it would come into the family justice system, and it may be that other powers are necessary on the commissioning side of things. You have already mentioned that it is bigger than a part-time job; you have clearly picked that up. Resolution also wondered whether, given the scale of the job, it might be appropriate to have some local abuse commissioners—rather than just focusing on a national commissioner—to look at what is coming up from the ground. We would like to see this as being quite an innovative role, in taking forward projects—there is good work going on round the country with things being piloted—and to be able to draw on that work and try to live the ambition of the Bill to innovate with things like that. We need to make sure that everything is properly resourced. I don't know whether you want me to go on to the question about how domestic abuse commissioners should work in a multi-agency way at this stage.

Q103 **Baroness Burt of Solihull:** Coming on to that, is there anything to add from the other three?

Amanda Barron: I completely agree.

Q104 **Baroness Burt of Solihull:** You all agree.

Nicole Jacobs: I think you will have heard about the scope of the commissioner, from others—about the interest in broadening out to look at wider violence against women and



girls. To some degree, that may happen naturally, because to do it well, that is exactly what you would do. Your previous panel gave you some very good input about the independence-related suggestions and also the need to work with other commissioners. For example, I read something from the Children's Commissioner, from a rapid evidence assessment in January, which would highly impact the idea of specialist domestic abuse services. It was advocating the idea of a victim's advocate, which could be a great idea on one hand; but it could also impact the independent domestic abuse advocate. The necessity for commissioners to work together and co-ordinate with each other is something that obviously would be important.

I really like Elspeth's comment about promoting what is working. There is a real need that we all have—we want to see these changes, so we think that this commissioner role, in a part-time form, will somehow suddenly make this breadth of change. I think we have to be cautious about that, because so much of what happens is implemented locally. We want to give the commissioner's role adequate oversight, and for there to be real power in that role. The fact is that a lot of how things are implemented happens locally, and we have to start showing the best of what is happening. We often talk about what is not happening but don't talk about, or try to emulate more, what is happening. That is an important role of the commissioner.

Q105 Baroness Burt of Solihull: Thank you. May we now talk about the multi-agency working? How do you think that the commissioner is going to approach the courts in this context?

Elspeth Thomson: Thoughts that we had at Resolution were that it is in terms of judicial training and ensuring that there is input in the judicial college and the training for all tiers of the judiciary, from the High Court down to magistrates. The other way they could do it is through the local family justice boards, which sit in each court cluster. There would be a role for the domestic abuse commissioner to have input into those. At the moment they tend to focus more on public law and there is less input, in the local family justice boards, on domestic abuse. Something that perhaps does not shine through in the Bill is the impact on children of domestic abuse and how that brings them into the child protection system. The commissioner could have a role with local authorities and access the family justice system through the local authority safeguarding route as well. There is not as much focus as there could be on the children who end up being brought through the care system.

Q106 Baroness Burt of Solihull: Indeed, and that came up in the previous evidence session as well. Would anyone else like to add to that?

Tanya Allen: I want to comment on what multi-agency working really looks like. Certainly, one of the things that I notice is that, throughout the consultation response, there is a value to the third sector—the voluntary sector—in the role that they play. However, operationally, as somebody who is one of those people, it would be important to make clear the necessity of working with the third sector in order to get the benefit of their specialism. We often find that contracts are quite short-term. We find third sector agencies are then required to persuade and negotiate, in the first part of a really short contract, with the statutory sector in order to do the job that they have been commissioned to do. To have a bit more of a statutory endorsement as to the necessity, to mark that that is what input is involved in multi-agency working, would make life a lot easier and make the voluntary sector's work a lot more efficient as well. I would like to see the commissioner be very aware of that and use the powers that we need.

Q107 Baroness Burt of Solihull: Indeed, absolutely, yes.



Nicole Jacobs: What you see in a lot of the existing guidance right now is a muddling of the CPS and the court. There are certain partners that are delineated to be involved. What we know from our work is that that is very good but if you would add in, or even compel, or somehow find ways to make more clear, the equality needed within the third sector—the specialist sector—in those settings, then you are on to a much better recipe for success. I would say that the designate commissioner and the DA commissioner has a role in that, but there are also opportunities in the Bill to think about how you can strengthen and make those roles a bit more equal.

Amanda Barron: I would agree with that. Where I would like to see some emphasis, in my role as the liaison magistrate for the criminal courts with domestic abuse, is to see if the domestic abuse commissioner can establish specialist courts, or certainly a multi-agency approach to domestic abuse, in every justice area across the country, because it really does seem to work well to me.

In our specialist court we meet about six times a year and it is very much a multi-agency approach, with Standing Together Against Domestic Abuse, with the court IDVA service, with witness service. We have specialist probation; we have the police who come as well; we can have specialist CPS. We all work together to try to have the best practice possible, to get justice in the courts, and to have complainants, victims and their families supported, and also to have very well trained justices and legal advisers and DJs, so everybody is very well versed in what is going on.

Perhaps the domestic abuse commissioner could at some point, or if there are local ones—which I think is a great suggestion from Elspeth—perhaps they could join in on some of these multi-agency meetings to promote best practice in the criminal courts.

Baroness Burt of Solihull: That was really useful because there were some great ideas there. Thank you.

Q108 Lord Blair of Boughton: I am slightly surprised to find that I need to declare an interest—my wife was a former, I think a founder, member of the Solicitors Family Law Association. I had better do that. I was not sure. I did not know that Resolution was the new term of art.

I want to have a little bit of a look at the policing and justice elements of this. I start with the domestic abuse protection notices and orders. We heard from a previous witness that only 1% of cases of domestic violence invoke the domestic violence protection order, but that the new orders coming will still leave the earlier orders intact. I wondered, Amanda, what you thought about the idea. You are going to be faced with a forest of different protection orders. I am also interested in the idea that the police have to pay the court fees, which is obviously a pretty seriously difficult issue. Could you help me with that?

Amanda Barron: That's right. The domestic violence protection order, the police do pay for. Because it is only an order up to 28 days, it is very much an emergency order, a cooling-off period. You don't even need the victim's consent for it. I am not sure how much the police have used it. We haven't seen that many orders because, if there is enough evidence to try to go for a conviction, I think the police are more likely to go down that route, and then charge somebody and go through the CPS.

The situation we have at the moment is that we have a graduated system with a number of options for orders. We have the domestic violence protection order for emergency situations, which is short and which only the police can apply. But then we do have other protections. We have the restraining order, which we use a lot in our criminal courts as an ancillary order.

So, if someone is convicted of a domestic abuse type offence, or even on acquittal at a trial, very often there will then be a restraining order, which can be indefinite and has various tests. In the family court as well, you can apply for an emergency order; a victim can do that. On the non-molestation orders, a family court can run alongside a restraining order in a criminal court.

There is some confusion to an outsider about all these different orders, but they all work to give a graduated system. I understand the idea of having a one-size-fits-all order now, in the domestic abuse protection order, but we should be careful about how it is managed and perhaps have a period in place during which all the orders are there going forward. The domestic abuse protection order is a bit of a one-size-fits all order.

Q109 Baroness Bertin: Can I just come in on that: do you agree that a breach should be a criminal offence?

Amanda Barron: Yes, I think it should be a criminal offence. It is a civil order. The DVPOs, the ones at the moment, do not involve a criminal offence, but they are only very short. They are for 28 days.

Q110 Lord Blair of Boughton: Any other comments on that?

Elspeth Thomson: In terms of the breach being a criminal offence, I think it is important that the victim has a choice of how it is enforced, either as a criminal offence or as a contempt of court. A lot of victims do not want to see the person being criminalised. It is often the father of their children, and it is not a route they choose to take. Because of the way the Bill is worded, I did not entirely follow how the contempt route would be pursued. The Bill refers to a choice of either contempt or a criminal charge, but I could not follow how somebody would choose which route to go down. That would need clarification.

Tanya Allen: I think it is the one-size-fits-all aspect that confuses me a little bit. I am not clear what the DAPO would add to the existing provisions in place. I can see it around the positive requirements element, and that is a positive thing, but that also carries a lot of resource implications. I am not sure that it clears up any confusions. I agree that a breach of a DVPO should be a criminal offence, and I understand the idea about contempt. If the DVPO were to stay distinct from restraining orders and non-molestation orders it would fit, but I am not entirely sure. The contempt route cannot be used if the DAPO was ordered on conviction under what is being suggested. However, restraining orders are imposed on acquittal, and non-molestation orders are imposed, and they are very protective ancillary orders. I would worry that the option of going down the contempt route might result in leniency. If that choice is made then a court might go down the contempt route when otherwise, right now, it might go for up to five years' imprisonment.

Q111 Lord Blair of Boughton: Given the time, we are going to stop at that point, and come directly to Nicole about the possibility of extending special measures in court from just in the criminal court to the family courts. Is that a good idea? In particular, there is the issue about in-person cross-examination by the alleged perpetrator.

Nicole Jacobs: These are very easy answers to me but I will defer to others who are in court a lot more than I am. Special measures should absolutely be extended, and cross-examination should be banned. As for what it feels like to be a victim of domestic abuse and end up in that setting—it is unpredictable, and can be disorientating. For those reasons we will achieve better evidence, better outcomes—not necessarily distorted outcomes, but better and clearer outcomes for the court—and better evidence presented to the judiciary. But I will defer to others who may have more detailed comments.

Amanda Barron: At the moment, special measures are not automatic, we have to apply the “will it achieve better quality evidence” test. All our magistrates and legal advisors and DJs know that courts can, on their own initiative, grant special measures at an oral application. Almost all of our cases will be granted special measures, because of the nature of the domestic abuse, as they are likely to give much better evidence.

Q112 **Lord Blair of Boughton:** If I may say so, yours is a very specialist court, or group of courts. The rest of the country does not have that.

Amanda Barron: Yes, so to have it automatically is a very good thing, because a lot of magistrates or DJs who do not deal with domestic abuse all the time will not necessarily realise the pressures that a complainant may be under, and how those may be different for a non-domestic abuse witness in a court. I welcome having that automatically.

In fact, I was a bit worried, having read it, that it seems like they are not going to make the cross-examination prohibition automatic in the criminal courts, which I think needs to be done for two reasons. First, there are often administrative errors, I am afraid. In not-very-specialist courts doing case management for a domestic abuse trial, I have seen quite a few cases where people will forget to put in the section 36 directions saying that the defendant cannot cross-examine the complainant. You might also find that they do not get legal aid, so that the lawyer who was there when you set up the trial is not there when you come to the trial.

We have seen quite a few trials go out because the victim or complainant turns up in person with a defendant, and it is not workable that they could cross-examine each other, so for that prohibition to happen automatically would be good. It would also give security to the complainant, knowing that, when they come to trial, they will definitely not be cross-examined in person.

Q113 **Lord Blair of Boughton:** Are there any contrary points to that?

Elspeth Thomson: No, but quite a lot more detail needs to go into both those issues. I will focus more on the cross-examination point, but there is nothing in the Bill to say that there has to be special measures in the family courts. At the moment, practice direction 12J covers children’s proceedings and sets up provision for special measures, but that is not in other family proceedings, and there is nothing in the Bill that will make sure that that happens. That needs to be looked at.

On cross-examination by alleged perpetrators, the focus in the Bill is that that prohibition will be mandatory where there have been criminal charges, a caution or an on notice non-molestation order. However, that misses out a lot of situations in which somebody’s evidence will be compromised by their experiences. That is covered by the discretionary ability to prohibit cross-examination, but Resolution suggests that it would be helpful if it was also mandatory to prohibit cross-examination in family proceedings where there has been a

finding of fact of domestic abuse, such as where there has been a finding in the family court that there has been domestic abuse. That should also trigger an automatic prohibition of cross-examination, rather than the focus just being on the criminal side of things.

Moving on from that, a lot of detail needs to be ironed out to get a system where alleged perpetrators are not cross-examining. It would not be right to just lift and shift the system we have in the criminal courts across to the family courts, because we operate a bit differently. For example, in the criminal courts, you always have a lawyer doing the prosecution, whereas in the family courts, you may not always have the victim having a legal representative; even though there will be scope eligibility for legal aid, the means test often means that victims are not going to have a lawyer. There will be a potential inequality of arms if the perpetrator is represented but not the victim. How the legal aid system could be addressed to ensure equality of arms in that needs to be looked at.

There is also the difficulty in family proceedings of just parachuting somebody in to do the cross-examination. It would be a bit like if you had a surgeon parachuted in to do an operation on somebody without having seen the medical notes or the history—they would just do the operation and then wash their hands and leave somebody else to do the aftercare. That is the danger of somebody parachuting in just to do the advocacy. They will not necessarily have seen all the case papers. They may have identified missing documents, police disclosure and that sort of thing. They need the opportunity to do a proper job, or else they risk being negligent if they just step in and do it like that.

You also then have issues around identifying suitably qualified people to do it, how they are appointed, the transparency of the scheme and—

Lord Blair of Boughton: I am going to stop you there. In the interests of time, I shall stop at that point.

Q114 **Alex Norris:** I will briefly return to the theme of migrant women. Elspeth, it is best targeted at you first but I am interested to hear what other panellists have to say, if there is something. Having looked at the Bill, do you think there are further legal measures that are necessary or that would improve the Bill to help better protect women with uncertain immigration statuses from domestic abuse?

Elspeth Thomson: It is possible, but not so much for Resolution. It might be an idea to look at the Immigration Lawyer Practitioners' Association to ask for further input on that. From Resolution's experience of the situation, it's a fear of reporting. If people are scared they are going to be deported, you need a safe mechanism for the reporting. That is often the bar to people with those issues accessing justice on that. We also have a comment to make about the very specific gateway evidence requirements for legal aid. There is a tweak needed there, but that's not something I need to take time up with now. We can let you know in writing afterwards.

Nicole Jacobs: I think there is unanimous feeling in all of the sector that I know of about the support for Step Up Migrant Women. You will know the detail of that already: Southall Black Sisters, #ProtectionForAll. One thing I would feel very strongly about is this firewall between public services and immigration services. If I were a migrant woman fearful of my own status and what the repercussions would be, I would very likely not talk to people about it. I think we would all feel that way. These are practical things that need political leadership

in terms of how to resolve them, but I do not have anything more to say than what you could have had in evidence before.

Elsbeth Thomson: If the definition included more cultural aspects of domestic abuse, that could help address this issue as well.

Q115 **Helen Whately:** I will be quick, given the time. Would you like to suggest any legislative proposals, which might help prevent or reduce escalation of domestic violence, to be included in the Bill?

Tanya Allen: I have a very short one. I am quite surprised at the lack of comment in the responses across the board to strangulation as a risk element. From sitting in the courts every week for nearly 10 years, a vast majority of assaults include mention of strangulation, choking, grabbing around the throat. The majority are within the common assault charge that has been brought ahead. I have real concerns that that does not reflect the seriousness and potential risk of fatality of that kind of behaviour and practice. If that could be defined to show its seriousness, it would go a far way towards protecting but also preventing much further escalation, because that is the start, for sure, of a very dangerous practice.

Q116 **Chair:** Did you want to comment on that, Elspeth, because this is playing to your issue about the list of offences?

Elsbeth Thomson: Yes, on the question of whether to define assault with strangulation, I agree it does feature a lot—in my personal experience with my caseload, it is a form of assault that seems relatively common. As for setting out specific assaults within the definition, perhaps that would narrow it a little too much.

Nicole Jacobs: If I can just say a word on prevention, we think of different things when we hear prevention. Some of us are thinking about work in schools, some of us are thinking about early intervention. A lot of what Standing Together does is about getting the systems to work so that you have a better shot at intervening earlier and, when you do, doing things properly so that the survivor has more confidence in the systems. That is definitely the case within the specialist court.

To make a plea to the Committee about cost-effectiveness, there is a lot of provision in the Bill that would create some burden. To do it properly and implement it properly is to create some spend. Although the specialist court system is unusual, at one point, not that long ago, there were 147 specialist courts and the Government had a system to accredit those courts. When there have been a lot of court closures, there has been a deterioration. It is something that we should all have the ambition to move back to—there are movements afoot to do that, and it is sitting within the designate DA commissioner's job description currently, which is really positive.

It is a very cost-effective notion. Amanda talked about six meetings a year. Those meetings are very practical and are working through the ways of the criminal justice system, and you could use the same model or principles in the family court. When it comes down to it, we cannot legislate for all the systemic things that go wrong, but we can help to model the kind of multi-agency working and who needs to be involved to work through those practicalities.

Amanda Barron: I would agree with that actually, because the new domestic abuse protection orders are very much a one-size-fits-all order. We have most of those orders in place already. The only really new thing is the notification requirements that come with the

DAPO. Nearly everything else, from electronic monitoring to positive requirements, we can have in a criminal sentence. The multi-agency approach works very well, by having a group of different specialist agencies all working within a local justice area to provide the best fair and just decisions that they can.

To have some robust sentencing as well, to prevent reoffending, is important. As I said, we have only one type of programme at the moment that we can put offenders on. It would be great to see more programmes. How will those programmes on the domestic abuse protection order work alongside programmes that you might get in the criminal court as well? You could have, say, a victim who has her own domestic abuse protection order, then, say, the offender has a criminal conviction. How are you going to run those alongside? So looking at how it is going to work practically is important.

Tanya Allen: That cannot be done on a central level; it has to be done on a local level. If the DAPO is going to be something that will be implemented, it is really important to have those multi-agency frameworks and foundations through which the gaps that the process may create can be filled. One of the key things that we see is where there are gaps in information and gaps in practice, they lead to risk. That is the principle by which we work in our multi-agency setting. If that is going to happen, it has to be on a solid foundation where people can identify gaps and work together to close them.

Q117 **Lord Farmer:** I am just going to briefly ask Elspeth one thing. You were formerly the Solicitors Family Law Association and you do a lot of work with mediation. My understanding is that you train and accredit mediators, and are the only body providing training and support for collaborative lawyers in England and Wales. Would you like some emphasis in the Bill on that early mediatorial, if you like, and preventive route?

Elspeth Thomson: We are always keen on having the least confrontational method possible to resolve family disputes, but our mediators are very aware that they have to screen for domestic abuse. Mediation may not be the appropriate course of action where there has been domestic abuse—in fact, it often is not. So while, yes, you need to explore out-of-court solutions for things, sometimes the presence of domestic abuse means that that is not the right route forward for a couple and it is not one of the options that should be looked at. But we would always say that it needs to be on the table and thought about.

Chair: Thank you so much for your time today. We have learned an awful lot and there have been a lot of extremely good ideas. Thank you very much for your time. That ends our second panel. If I could ask our panellists and members of the Gallery to leave, we will have a short private session.